



January 17, 2022

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Notice of Proposed Rulemaking and Request for Comment Regarding Guidelines for Evaluating Account and Services Requests (Docket No. OP-1788; 87 Fed. Reg. 68,691)

Dear Ladies and Gentlemen:

Better Markets¹ appreciates the opportunity to provide comments on the above-captioned notice of proposed rulemaking (“Release”)² from the Board of Governors of the Federal Reserve (“Federal Reserve”) regarding amendments to the guidelines for evaluating account and services requests (“Guidelines”). As discussed in the Release, these amendments would provide increased transparency around the institutions that have access to Federal Reserve accounts and services (“Federal Reserve access”).

Specifically, the amendments, as described in the Release, would result in the publication of a quarterly Federal Reserve System-wide report that includes:

- (1) a list of federally-insured depository institutions with Federal Reserve access, and
- (2) a list of non-federally-insured depository institutions with Federal Reserve access.

For each institution the name and its Reserve Bank district would be identified. Additionally, the report would identify institutions who were newly granted Federal Reserve access since the previous quarterly report and institutions who no longer have Federal Reserve access since the previous quarterly report.

¹ Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street, and make our financial system work for all Americans again. Better Markets works with allies—including many in finance—to promote pro-market, pro-business, and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans’ jobs, savings, retirements, and more.

² Notice of Proposed Rulemaking and Request for Comment Regarding Guidelines for Evaluating Account and Services Requests 87 Fed. Reg. 68,691 (November 16, 2022).

Furthermore, the Release puts forth a series of questions to solicit feedback on the level of transparency proposed and its benefits or drawbacks. Most notably, the Release puts forth important questions such as:

- (1) Are there additional data elements for each institution with access to accounts and services that the Federal Reserve should consider publishing to provide greater transparency to the public (such as the date on which access was provided, to extent known, or removed, location of the institution, etc.)?
- (2) Are there additional actions that the Board or Reserve Banks should take to provide transparency with respect to accounts and services? For example, should the Board establish a requirement for the Reserve Banks to publish a list of institutions that have requested an account or access to services (including the date on which the request was submitted, rejected, or withdrawn, etc.)?
- (3) Should categories of private sector institutions with access to accounts and services that are not covered by the Guidelines, such as designated financial market utilities, be scoped into the proposed Public Disclosure section?

Better Markets is fully supportive of increasing the level of transparency around Federal Reserve access. As an institution that was established to serve the American public, the Federal Reserve should always seek to provide the highest level of transparency to the public as possible without creating harm to the public or undermining its core mandates. Thus far, there has been essentially no transparency around Federal Reserve access. Certainly, that must change.

The amendments put forth in the proposal are a start, but much more is needed. Indeed, at the very least, the public should know on a regular and timely basis which depository institutions, federally insured or not federally insured, have Federal Reserve access. The Release raises the question of whether providing the names and Reserve Bank districts of institutions with access or formerly had access appropriately balances the public interest with protecting information that institutions consider to be confidential. Unquestionably, the public interest of such disclosure greatly outweighs the desire of institutions to keep such basic and limited information private on the basis that they might consider it to be “confidential.” Public knowledge of a private institution’s use of a public service cannot be considered confidential. Additionally, the proposed level of information is as minimal as possible (i.e., name and Reserve Bank district) and is not related to the actual business operations of the institutions. These data elements must be shared with the public.

In fact, sharing even more information with the public would be beneficial and in the public interest far beyond any concerns of private sector institutions. Specifically related to the questions from the Release reproduced above:

- (1) Additional data elements should be disclosed including:
 - a. Date on which the access was granted;

- b. A means to identify the institution, whether it is a unique identifier that can be publicly accessed and linked to identification details such as the address of the institution's headquarters (such as the unique identifiers assigned by the Federal Reserve and other banking agencies) or – if a such a unique identifier is unavailable – identification details such as the address of the headquarters (“identifying information”); and
 - c. A listing of the specific items to which the institution was given access.
- (2) The Federal Reserve should disclose information regarding applications for Federal Reserve access including:
- a. The name of the applying institution, district, and identifying information;
 - b. Date of the application;
 - c. Type of institution, charter type (if applicable), and applicable Tier from the Account Access Guidelines that were finalized in 2022 (i.e., Tier 1, Tier 2, or Tier 3); and
 - d. A summary of the relevant Reserve Bank's assessment of any institution applies for Federal Reserve access (approved or denied) based on the Account Access Guidelines that were finalized in 2022.³
- (3) The disclosure should include categories of private sector institutions with access to accounts and services that are not covered by the Guidelines.

CONCLUSION

We hope these comments are helpful as the Federal Reserve considers amending the Guidelines.

Sincerely,



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Director of Banking Policy

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³ 87 FR 51099 (Aug. 19, 2022).

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